

September 14, 2023

VIA CM/ECF

Hon. Gregory H. Woods
United States District Court, Southern District of New York
500 Pearl Street, Room 1920, New York, NY 10007

Re: *U.S. Bank National Association, et al. v. The Charitable Donor Advised Fund, L.P. and CLO HoldCo Ltd.*, **Case No. 1:21-cv-11059-GHW.**

Dear Judge Woods,

Plaintiffs/Counter-Defendants U.S. Bank, National Association, in its capacity as trustee, Acis Capital Management, L.P. (“ACM”), and Joshua N. Terry (collectively “Plaintiffs”), Defendants/Counter-Plaintiffs Charitable DAF Fund, LP a/k/a The Charitable Donor Advised Fund, L.P. (“DAF”), CLO HoldCo, Ltd. (“CLOH”), and NexPoint Diversified Real Estate Trust (“NexPoint,” and, together with DAF and CLOH, “Defendants”), and Counter-Defendant Brigade Capital Management, LP (“Brigade,” and, collectively with Plaintiffs and Defendants, the “Parties”) jointly submit this letter pursuant to Paragraph 1.E of the Court’s Individual Rules of Practice in Civil Cases to request a brief extension of the deposition deadlines set out in the Court’s Case Management Plan and Scheduling Order (the “CMO,” Dkt. 76, as amended by Dkts. 159 and 191), to accommodate the taking and/or completion of two depositions. This is the third request for an extension of this deadline. All parties consent to this request.

The Parties respectfully seek authorization to conduct the deposition of former NexPoint employee Hunter Covitz and to complete the deposition of NexPoint corporate representative James Dondero after the September 15, 2023 close of fact discovery. The Parties have been unable to schedule Mr. Covitz’s deposition prior to the current close of fact discovery deadline, but Mr. Covitz is available to be deposed on September 25. Mr. Dondero was deposed on September 8 but the Parties were unable to complete his deposition that date and agreed to continue the deposition until a date to be determined in late September or early October. The Parties request that the Court so order this joint letter incorporating the requested extension.

The Parties thank the Court for its consideration and attention to this matter.

Respectfully Submitted,

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